

Opinion no. 33
of the European Union Affairs Committee of the Sejm of the Republic of Poland
on
“Proposal for a Regulation of the European Parliament and of the Council establishing
a European Labour Authority
(COM (2018) 131 final)”
adopted at the 201st meeting on 10 May 2018

The European Union Affairs Committee of the Sejm of the Republic of Poland at the meeting on the 8th of May 2018 scrutinized the *“Proposal for the Regulation of the European Parliament and of the Council establishing the European Labour Authority (COM (2018) 131 final)”* including the draft of the position of the government of the Republic of Poland.

The aim of the proposal is to establish an EU agency whose purpose would include problem-solving in the field of:

- consulting service for citizens and entrepreneurs operating in cross-border situations;
- completing the information exchanged between national institutions responsible for particular areas of labour mobility and coordination of social security systems as well as improving the access to this information - dedicated to citizens and employers regarding their rights and obligations, coordination of social security and the access to services;
- improvement of the operational cooperation, especially in the cross-border regions, facilitating of joint inspections;
- providing mediation and assistance in contentious issues.

The activities of the European Labour Authority are to include those persons who are subject to Union rules in the area of cross-border labour mobility and social security coordination, namely workers, self-employed and other Union or third-country citizens legally residing in the EU, who have found themselves in cross-border situations. This includes posted workers, EU Blue Card holders, intra-corporate transferees and long-term residents, as long as they are subject to the above mentioned rules. According to the European Commission, the Authority will also be advantageous to enterprises engaged in cross-border activities, including for recruitment purposes. Taking the above into account, the European Union Affairs Committee notices the justification for further work on establishing this type of institution. Nonetheless, the Committee would like to draw attention to the following issues, which should be taken into account, namely:

- resolving the issue of overlapping functions and authority of existing institutions undertaking analyses in this area, such as the Advisory Committee on Free Movement of Workers, the Committee of Experts on Posting of Workers, the Technical Committee, the

Audit Board and the Conciliation Board of the Administrative Commission for the Coordination of Social Security Systems, the European Platform tackling undeclared work. Therefore, it would be advisable, as proposed, to define the activities and tasks of the new Authority as to coordinate the EURES network. The activities of this network are in line with the objectives set for the European Labour Authority. The EURES network is composed of the public employment services of the Member States and other authorized organizations at the local, regional, national and EU level, operating in the area of employment. This network provides services in the area of EU job matching and information on living and working conditions in the Member States, thus contributing to the realisation of the freedom of movement for workers;

- the need for a better justification and argumentation of the proposal to abolish two of the Committees – The Committee on Free Movement of Workers and the Committee of Experts on Posting Workers, as well as three committees operating in the framework of the Administrative Commission for Coordination of Social Security Systems, and the European Platform tackling undeclared work. Such a necessity arises as a result of a positive evaluation of their hitherto activities. Taking into consideration the planned composition of the Authority, it has not been sufficiently proved that effective performance of the tasks previously assigned to these bodies could be significantly improved. At the same time, it should be noted that these are specialized bodies, in most cases with long-term experience, and having so-called institutional memory, the importance of which is difficult to overestimate. There is a concern that the first years of the operation of the Authority (2019-2023, defined in the Annex to the draft Regulation as the "start-up period") may be the time during which a number of difficulties and problems may increase due to the fact that these will be the first years of application of several “sensitive” EU legal acts (new or revised ones, such as new provisions on posting of workers or on coordination of social security systems). It seems, therefore, that introducing such far-reaching institutional changes at this time is not justified nor rational;
- the focus of the proposed European Labour Authority, among other things, on conducting analyses and risk assessment in the area of issues related to cross-border mobility of workers. It results from Art. 11 which should be assessed positively in view of the possibility of accessing and using these studies. It should be remembered, however, that the Authority would also collect statistical data provided by the Member States, which would require fulfilment of the information obligations and, as a result, performing additional tasks by relevant national authorities;
- proposed solutions would require harmonisation of law, what would break the current

consensus based on the provisions of the Treaties, according to which decisions related to social security fall within the competence of the Member States. That is why the European Union Affairs Committee shares the position of the Polish Government as regards maintaining provisions that would guarantee the division of competences and respect for the principles of subsidiarity and proportionality.

The Committee notes that the presented document describes the institution in an overly general manner, and does not specify precisely enough on what terms the performance of the assigned tasks is supposed to take place. Therefore, it is reasonable to expect that the provisions of the Regulation are unambiguous and do not generate multi-interpretative possibilities. It is important to maintain a proper balance between control functions and the dissemination of knowledge and awareness to EU citizens and entrepreneurs on their rights and to respect those rights in regard to mobility on the labour market. The provisions on budgetary burdens in connection with the establishment of the Authority are unclear, the information on the specificity of these burdens, for example whether it will be obligatory or optional, is missing. It seems questionable to assign the Authority wider competences after 5 years of its functioning a priori, though following the evaluation process, but it is difficult to anticipate the result of it. It is reasonable to expect current and periodic evaluation and recommendations for changes in proposed solutions, without prematurely suggesting their character, although in the sense sui generis it would be advisable to express expectations as to their direction. The coordinating role of the European Labour Authority finds justification and acceptance under one condition, namely that the competences assigned to the Member States will be respected as well as the provisions of the Treaties.

Considering the above reservations, and assuming their inclusion in the process of work on the final version of the Regulation on the European Labour Authority, the European Union Affairs Committee of the Sejm of the Republic of Poland shares the position of the Government of the Republic of Poland.

The Committee states that the adopted opinion will be submitted in the framework of the political dialogue - to the Presidents of the European Commission and of the European Parliament and to the Bulgarian Presidency.

Chair of the European Union Affairs Committee

/-/ Izabela Kloc